UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

May 18, 2012

CBCA 2629-RELO

In the Matter of DAVID STANLEY

David Stanley, Lafayette, LA, Claimant.

Teresa L. Weaver, Finance Officer, Bureau of Safety and Environmental Enforcement, Department of the Interior, Herndon, VA, appearing for Department of the Interior.

DANIELS, Board Judge (Chairman).

David Stanley, a petroleum engineer who is employed by the Department of the Interior's Bureau of Safety and Environmental Enforcement (BSEE), was transferred by the bureau from Lake Charles, Louisiana, to Lafayette, Louisiana. Although relocation benefits were authorized for this move, BSEE refused to reimburse Mr. Stanley for the expenses he incurred in selling his house in Lake Charles. According to the bureau, reimbursement is not permissible because the employee entered into a contract for the sale before he was notified that he was selected for the position in Lafayette. Mr. Stanley challenges this determination, maintaining that because the contract contained a contingency which he did not remove until after the selection was made, he is eligible to be paid the expenses of the sale. We agree with the employee.

Background

On January 6, 2011 (the 252nd anniversary of George and Martha Washington's wedding), BSEE advertised the availability of an engineering job in Lafayette. The bureau said that it would accept applications for the position until January 21. Mr. Stanley, who was then working in Lake Charles, spoke about the job with the district manager of the bureau's

Lafayette District. The district manager felt that he was extremely well qualified and urged him to apply.

On January 18, Mr. Stanley signed a contract to purchase a home in Lafayette. The contract contained a contingency: the sale would occur only if he sold his home in Lake Charles before March 8. Mr. Stanley had insisted on the inclusion of the contingency so that if he was not offered the position in Lafayette, he would not be required to consummate the purchase.

BSEE offered Mr. Stanley the Lafayette position on February 11, and he immediately accepted it. He then removed the contingency from the contract to buy the house there.

Settlement on the Lafayette house occurred on February 28. Mr. Stanley was able to move into the house even before beginning his work in Lafayette on March 14.

Discussion

Under statute and regulation, employees who are transferred from one location to another in the interest of the Government are entitled to be reimbursed for various kinds of relocation expenses, including the costs of purchasing a home at the new duty station. Reimbursement is appropriate, however, only for expenses an employee incurs after he is notified that he will be transferred. 5 U.S.C. § 5724a(d) (2006); 41 CFR 302-11.305 (2010); *Gary J. Tennant*, CBCA 553-RELO, 07-1 BCA ¶ 33,558. An employee incurs expenses, we have held in interpreting the regulation, when a contract obligating him to pay those costs becomes binding. *Jorge L. Gonzalez*, CBCA 984-RELO, 08-2 BCA ¶ 34,004; *Joseph Bush*, CBCA 660-RELO, 07-1 BCA ¶ 33,560; *Peter J. Grace*, GSBCA 16790-RELO, 06-1 BCA ¶ 33,219.

In this case, the contract between Mr. Stanley and the prospective sellers of the house in Lafayette was initially contingent on the occurrence of an event which, at the time the contract was written, might or might not have transpired. The contract did not obligate anyone to incur any expenses until the contingency was removed. Because the obligation was not fixed until after BSEE had decided that Mr. Stanley would be transferred to Lafayette, the purchase of the house is deemed incident to the transfer and the employee is entitled to be reimbursed for the expenses he incurred in making the purchase.

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STEPHEN M. DANIELS
Board Judge